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ACLU faults charter for FBI, CIA

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WASHINGTON — The American Civil Liberties Union (ACLU) told Congress yesterday that it believes that a proposed charter for the FBI and CIA would legalize many of the abuses against citizens uncovered in recent years.

In testimony before the Senate Intelligence Committee, Jerry Berman, legislative counsel for the private civil liberties group, said it was "concerned that Congress, in its haste to remove so-called 'unwarranted restraints' on the intelligence agencies, may ignore or give short shrift to the rights of Americans."

The proposed charter, which would apply to all U.S. intelligence agencies, including those of the Defense Department, was worked out by committee staff members and officials from the intelligence agencies. The administration has objected to some provisions, such as briefing Congress in advance of covert spy operations.

Administration officials, however, have not objected to the sections that Berman attacked, and he complained that "Congress is not forcing the agencies to give an adequate explanation on the public record of the bill's intent and meaning."

Berman said the charter would allow the FBI at home and the CIA abroad to investigate Americans who may be involved in clandestine intelligence activities on behalf of a foreign power. But he said the definitions are loose enough to cover secret, but legal, political activity.

He said they could authorize surveillances such as those conducted in the 1960s and 1970s against opponents of the Vietnam War.

Berman said a provision allowing wiretaps, break-ins and the opening of mail of Americans overseas, with court permission, would have legalized the Nixon administration's tap of columnist Joseph Kraft's telephone in Paris because he was meeting with North Vietnamese negotiators at the Vietnam peace talks. Under the charter, he explained, a court would need only to conclude that the American involved had received or was about to receive information essential to U.S. national security.

Berman argued that such tactics should be limited to cases in which there is probable cause to believe the American has committed or is about to commit a crime.

However, John F. Blake, president of the Association of Former Intelligence Officers, told the committee that his group objected to requiring court warrants in such situations because the conduct of intelligence operations abroad should be left entirely to the executive branch.

Berman argued that the charter would give too much discretion to the president and the attorney general. The president, for instance, would be allowed to decide whether such sources of information as informants, tax or medical records, and confidential government or private records could be used in certain investigations, Berman said.

"This approach ignores a central lesson of the official record of abuses," Berman said. "It was President Lyndon Johnson who ordered the CIA to conduct domestic security investigations of the antiwar movement to determine whether it was acting under the direction of Hanoi. It was Attorney General Robert Kennedy who approved the wiretap of civil rights leader Martin Luther King Jr."